

REMARKS

At the time of the Fourth Office Action dated December 15, 2009, claims 4-6 were pending and rejected in this application. Claims 22-31 have been added, and Applicant submits that the present Amendment does not generate any new matter issue.

CLAIMS 4-6 ARE REJECTED UNDER THE SECOND PARAGRAPH OF 35 U.S.C. § 112

On page 2 of the Fourth Office Action, the Examiner asserted that claims 4-6 are indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed.

At the outset, Applicant notes that in four prior actions (i.e., 3 Office Actions and 1 Examiner's Answer), the Examiner did not believe this language to be indefinite. Moreover, the Honorable Board, when reviewing claim 4 (which was argued separately), did not believe this claim to be indefinite. As such, Applicant is unclear as to what has changed that suddenly renders, as indefinite, previously clear claim language.

Notwithstanding the lateness of its presentation, the Examiner made the following assertions with regard to independent claim 4:

It is not clear from the claims if the marketing element of the third party website is displayed in the first website or in the reciprocal site.
Applicant respectfully disagrees with the Examiner's analysis.

The Examiner's analysis does not raise a legitimate issue. The Examiner is attempting to distinguish between "the first website or in the reciprocal site." However, the reciprocal site is within the first website. As such, the marketing element of the third party website is displayed within both the reciprocal site and the first website.

Therefore, for the reasons stated above, Applicant respectfully submits that the imposed rejection of claims 4-6 under the second paragraph of 35 U.S.C. § 112 has been overcome, and hence, Applicant respectfully solicits withdrawal thereof.

CLAIMS 4-6 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON MASON ET AL., U.S. PATENT NO. 6,401,075 (HEREINAFTER MASON), IN VIEW OF MOORE ET AL., U.S. PATENT NO. 6,330,575 (HEREINAFTER MOORE), AND ALBERTS, U.S. PATENT NO. 5,937,392

On pages 2-5 of the Fourth Office Action, the Examiner concluded that one having ordinary skill in the art would have considered the claimed invention to be obvious in view of Mason in view of Moore and Alberts. This rejection is respectfully traversed.

Applicant refers to page 15 of the Decision on Appeal in which the Honorable Board concluded

Claim 4 depends from claim 1 and requires a reciprocal site. The Appellant argues that the Examiner failed to show such reciprocity in the site described in the references (Reply Br. 9). We agree with the Appellant. The Examiner appears to have ignored this limitation in the analysis by construing the term "reciprocal" to mean simply a third party (Ans. 19).

The Examiner's newly presented rejection of claim 4 is based upon Mason and Moore (previously cited) and new cited Alberts. Since the Honorable Board has already concluded that the combination of Mason and Moore fails to teach the limitations at issue, Applicant will address the newly cited Alberts.

On page 4 of the Fourth Office Action, the Examiner presented the following findings with regard to newly cited Alberts:

Alberts teaches a system where a plurality of advertisers selects to display banner ads in a web page and where said banner ads are displayed in rotation in said web page (see col 3, line 1 - col 4, line 45). Alberts also teaches that said banner ads includes an ad identifier that includes a uniform resource locator (URL) or a pointer to a graphical and/or textual object (see col 3, lines 37-42).

Notably absent from the Examiner's characterization of Alberts is any mention of the reciprocity that the Honorable Board identified as being missing from the combination of Mason and Moore. Referring to column 4, lines 34-39, the teachings of Alberts can be summarized as "ad servers provide rotational control that ensures that ads are served a desired number of times per day and with a desired distribution throughout the day, even with a large number of ads, a wide variation in ratios of hits, and/or wide variations of hits per day over multiple days." Entirely absent from both the teachings of Albert and the Examiner's remaining analysis on page 4 of the Fourth Office Action is any mention of reciprocity. Thus, the Examiner has failed to cure the deficiencies specifically noted by the Honorable Board in the Decision on Appeal.

For the above-described reasons, the Examiner has failed to establish that the claimed invention, as recited in claims 4-6, would have been obvious within the meaning of 35 U.S.C. § 103. Applicant, therefore, respectfully solicits withdrawal of the imposed rejection of claims 4-6 under 35 U.S.C. § 103 for obviousness based upon Mason in view of Moore and Alberts.

Claims 22, 25, and 29

Independent claims 22, 25, and 29 each recite limitations comparable to the following:

upon the first website being activated with respect to the internet, the computer website implementation system implementing the reciprocal arrangement by causing

(i) the first website to implement the first functional marketing element, and

(ii) the second website to implement the second functional marketing element.

As evident from a review of these limitations, these limitations also regard the concept of reciprocity. Therefore, Applicant respectfully submits that a rejection of claims 22-31 under 35 U.S.C. § 103 for obviousness based upon Mason in view of Moore and Alberts would not be proper.

Applicant have made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicant invites the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicant hereby respectfully request reconsideration and prompt allowance of the pending claims.

Although Applicant believes that all claims are in condition for allowance, the Examiner is directed to the following statement found in M.P.E.P. § 706(II):

When an application discloses patentable subject matter and it is apparent from the claims and the applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and when possible should offer a definite suggestion for correction. (emphasis added)

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 503839, and please credit any excess fees to such deposit account.

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Respectfully submitted,

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